

***Tax and Motor Vehicle Legislation  
Enacted, and Some That Failed, in 2009***

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**Presented to the  
  
Revenue Stabilization and Tax Policy Committee**

**First Meeting in 2009  
June 11, 2009**

## ***Key Legislation That Passed in the 2009 Session***

- **Corporate Estimated Payments (SB-80; Sen. Smith)**
  - **Restored 1<sup>st</sup> quarterly estimated payment, with initial payment partially delayed (half due April 15<sup>th</sup>, other half due June 15<sup>th</sup>)**
  - **Clarifies that withholding and oil and gas proceeds withholding payments are estimated payments**
  - **Estimated to raise \$58 million in FY 2009**
  - **The April 15<sup>th</sup> payment was estimated to raise \$27 million; actual was \$23.6 million**
- **Cigarettes (SB-219; Sen. Morales)**
  - **Changes were needed to insure that New Mexico is properly enforcing the Master Settlement Agreement, removing the risk of losing State revenue under the MSA (\$48 million this year alone)**
  - **Amends the Cigarette Tax Act and the Cigarette Tax Enforcement Act to conform rules and definitions and improve enforcement**
  - **Extends from 10 to 30 days the time that distributors can have cigarettes without affixing a stamp**
  - **Applies the tobacco products tax to samples and gifts of non-cigarette tobacco**
  - **Exempts Indian tribal sales from tax**
  - **Makes it a fourth degree felony to knowingly make a materially false statement in any record required to be kept under the Cigarette Tax Act**
- **Investment Tax Credit and Double-Weighted Sales Factor for Manufacturers (HB-75; Rep. B. Lujan)**
  - **Both extended to 2020**

## ***Key Legislation That Passed in the 2009 Session***

- **TIDD Oversight (HB-451; Rep. Lundstrom)**
  - **Adds notice requirements to the Secretaries of both Taxation and Revenue and Finance and Administration and the Director of the Legislative Finance Committee within 10 days after a resolution is adopted by a TIDD**
  - **Makes Secretary of DFA member of all TIDD boards**
  - **Provides distribution of remaining balances in debt service reserve fund to the governments that dedicated the revenue**
  
- **Winrock/Quorum Town Center Bonds (SB-467; Sen. Ortiz y Pino)**
  - **Authorized up to \$137 million for TIDDs 1 and 2, and \$27 million for TIDD 3**
  
- **Estimated Future Property Tax Information to Buyers (HB-261; Rep. Sandoval)**
  - **Requires sellers to disclose to potential buyers, prior to making an offer, a county assessor's estimate of what the property tax will be based on the asking price**
  - **The county assessor's estimate must contain a disclaimer that the estimate is based on the asking price but property tax valuations are "current and correct" which may be higher or lower than the estimate**
  - **Prospective buyers may waive the disclosure in writing prior to making an offer on the property**

## ***Key Legislation That Passed in the 2009 Session***

- **Confidentiality (HB-257; Rep. Varela)**
  - **Adds key new definitions (tax return and tax return information)**
  - **Adds general rules governing the confidentiality of tax information and the circumstances under which this information can lawfully be revealed to another person**
    - **Tax information can only be used for official purposes (no “browsing” or other unofficial or unspecified uses are allowed)**
    - **Tax returns and tax return information cannot be re-revealed without specific statutory authorization**
  - **Reorganizes exceptions into groups of related entities**
  - **Makes conforming changes to the penalty provisions**
  
- **Alternative Vehicle Registrations (HB-12; Rep. Taylor)**
  - **Provides a 5% discount for motor vehicle registration renewals made by phone or internet**
  - **Allows transfers to offset effect of discount on State and local road funds**
  - **Appropriates certain fees to MVD and makes them non-reverting**

## ***Key Legislation That Passed in the 2009 Session***

### ***General Fund Revenue Estimates***

<b>Tax-Related Legislation Enacted in 2009 Legislative Session</b>						
<b>Title/Description</b>	<b>Estimated General Fund Impact by Fiscal Year</b>					
	<b>(\$ millions)</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2009-13</b>
Executive Office Building Bonds			(0.30)	(1.80)	(1.80)	(3.90)
Continued Distribution to Retiree Health Care			(3.00)	(3.00)	(3.00)	(9.00)
Corporate Income Tax Reporting Dates	58.00	(3.50)	2.00	2.00	1.00	59.50
Manufacturing and Investment Tax Credits			(2.10)	(16.10)	(16.40)	(34.60)
School Event Service Gross Receipts		(0.13)	(0.13)	(0.14)	(0.15)	(0.54)
Sustainable Building Tax Credit Provisions		(a)	(a)	(a)	(a)	(a)
Geothermal heat Pump Tax Credits			(0.50)	(0.70)	(0.90)	(2.10)
Renewable Energy Tax Credit				(5.06)	(4.05)	(9.11)
Solar Market Development Tax Credit		0.57	0.66	0.76	0.87	2.85
Railroad-Highway Crossing Violation		(b)	(b)	(b)	(b)	(b)
Municipal Environmental Gross Receipts		(c)	(c)	(c)	(c)	(c)
<b>Total</b>	<b>58.00</b>	<b>(3.05)</b>	<b>(3.38)</b>	<b>(24.04)</b>	<b>(24.43)</b>	<b>3.10</b>

(a) Small positive but indeterminate revenue impact.

(b) Positive but interderminate revenue impact.

(c) Small negative but interderminate revenue impact.

**Copies of the *Legislative Summary: 2009*, New Mexico Bulletin B-100.21 2009, are available or can be obtained on the Department's web site:**

**[http://www.tax.state.nm.us/pubs/legislative\\_summary.htm](http://www.tax.state.nm.us/pubs/legislative_summary.htm)**

## ***Key Legislation That Failed in the 2009 Session***

- **PIT Simplification (HB-262; Rep. Sandoval) [Governor's bill]**
  - **Would help taxpayers by simplifying the personal income tax**
  - **Make the income tax fairer**
  - **Was fiscally responsible**
- **Corporate Income and Franchise Tax Changes (SB-648; Sen. Wirth)**
  - **Reduced corporate income tax rates between 2009 and 2012**
  - **Rate on first \$500,000 of income reduced to 0%; top rate reduced to 4.9%**
  - **New franchise tax imposed on New Mexico property, payroll and sales (used for apportioning income tax) in excess of thresholds**
  - **Property threshold \$5 million; payroll threshold \$1.2 million; sales threshold \$9 million**
  - **Franchise tax rate increased with reductions in corporate tax rates, from 0.16% to 0.25%**
  - **Bill raised approximately \$80 million per year**
- **Public School Funding (HB-346; Rep. Stewart)**
  - **Early version would have increased top personal income tax rate to 6% and increased the State gross receipts tax rate by 0.5%**
  - **Final version would have increased the State gross receipts tax rate by 0.75%**

## ***Key Legislation That Failed in the 2009 Session***

- **Suncal (Upper Petroglyph) Bonds (HB-470; Rep. Sandoval)**
- **TIDD Technical changes (SB-201; Sen. B. Sanchez) [TRD bill]**
  - **Would amend the gross receipts tax increment calculations to correct an omission, conform to tax reporting, and specify how certain estimates are made**
  - **Update the lists of municipal and county gross receipts taxes that can be dedicated to a TIDD**
  - **Add explicit rules for how excess amounts in a TIDD's debt service reserve fund are distributed when all bonds have been retired (similar rules included in HB-541)**
  - **Provided a mechanism for TIDD boards or developers to reimburse the Taxation and Revenue Department for the IT work necessary to implement the bill**
- **Broader property tax changes (various bills)**
  - **Legislation to address the unintended effects of the 3% limit on valuation increase and yield control will undoubtedly remain on the agenda**
- **Withholding Tax Update (HB-8; Rep. B. Lujan) [TRD bill]**
  - **Would have extended pass-through entity withholding and oil and gas proceeds withholding to residents, and made pass-through entity withholding quarterly**
  - **These changes were intended to save residents time and money by reducing the need for estimate payments and to improve compliance**

## ***Key Legislation That Failed in the 2009 Session***

- **Film Actor Withholding (HB-404; Rep. Lujan)**
  - **Would have required withholding on all payments for film performing artists**
  - **A conforming change insured that these payments would not be subject to gross receipts tax twice**
- **TAA Electronic Payments (HB-266; Rep. Trujillo) [TRD bill]**
  - **Would have helped small taxpayers by increasing the threshold for required monthly filing of Combined Reporting System (CRS) taxes**
  - **Help insure that large tax payments are received and distributed on a timely basis**
  - **Allowed quicker relief to taxpayers impacted by disasters or other crises**
  - **Increased the minimum penalties for failure to file or to evade tax, which are currently too low to be effective**
- **TAA Administrative Changes (SB-641; Sen. Cisneros) [TRD bill]**
  - **Would have helped taxpayers who have disagreements with the Department by simplifying and improving the protest and hearing process**
  - **Helped taxpayers by awarding administrative and litigation costs related to credits**
  - **Corrected the rate for food and medical hold harmless distributions to large municipalities and counties**